

**OFFICE OF NAVAL RESEARCH, OFFICE OF INSPECTOR GENERAL  
COMMAND DIRECTED INVESTIGATION – 2022-001  
27 JAN 2023**

**ALLEGED IMPROPER CONDUCT BY AN ONR PROGRAM OFFICER**

**Dissemination List:**

Office of the Naval Inspector General  
CNR/ ACNR / ED  
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**1. Investigators and Identifying Information and Location of Working Papers**

**a. Investigators and Identifying Information.**

(1) Richard Ridgway, NO-05, Inspector General, richard.w.ridgway2.civ@us.navy.mil, Department of Navy, Office of Naval Research (ONR), Office of Inspector General (OIG), 875 Randolph Street, Arlington, VA 22203.

(2) (b) (7)(C), (k)(2), (b) (6), NO-05, (b) (7)(C), (k)(2), (b) (6), Department of Navy, ONR OIG, 875 Randolph Street, Arlington, VA 22203.

(3) (b) (7)(C), (k)(2), (b) (6), NO-05, (b) (7)(C), (k)(2), (b) (6), Department of Navy, ONR OIG, 875 Randolph Street, Arlington, VA 22203.

**b. Location of Working Papers.** The case file and all working papers are located with the ONR OIG, 875 Randolph Street, Arlington, VA 22203.

**2. Background Information and Summary of Complaint**

**a. Background of Complaint.** The ONR OIG received an email from Ms. Elizabeth Sandel, SES (ONR Executive Director currently detailed to the Pentagon), on 8 October 2021. In this email, Ms. Sandel forwarded an email that was sent to RADM Lorin Selby, Chief of Naval Research (CNR), on 7 October 2021 from a Known Complainant (Complainant), Mr. Christopher Wu, CEO of Titan One Zero,

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LLC (TOZ). In summary, the Complainant's email alleged that personnel from [b)(7)(C)] organization witnessed fraud, waste and abuse by [b)(7)(C), (k)(2), (b)(6)] (Subject), ONR Code [b)(7)(C), (k)(2), (b)(6)].

b. **Summary of Complaint.** The original email complaint from the Complainant states that the Complainant submitted a Claim for Interpretation of Contract Terms under contract number N00014-20-C-2043 to ONR Code 252 on 1 October 2021 and that a detailed account will be submitted to the OIG. The email included the following allegations of fraud, waste, and abuse relating to contract number N00014-20-C-2043:

(1) Falsifying Government Documents: Various ONR personnel have been involved in generating and publishing false documents relating to Government property. Specifically, ONR personnel sent numerous, untraceable containers of equipment to TOZ facilities. When questioned about the contents of these containers, ONR personnel stalled for months, then generated "new" inventory forms to "explain" the situation. TOZ still has no idea why unusable equipment was sent to its facilities, nor does TOZ know the contents of many of these containers. After acknowledging that these containers have nothing to do with any TOZ contract, ONR personnel ordered TOZ to store this equipment for an indeterminate amount of time, and agreed to pay TOZ approximately \$500K to store the equipment at TOZ facilities.

(2) Waste of Government Funds and Resources: Complainant alleges that ONR personnel asked TOZ to perform work that has already been performed in the past. TOZ has also witnessed numerous occasions of waste of Government resources, such as asking TOZ to perform work that could not lead to any useable technology.

(3) Coercive and Retaliatory Contract Administration: ONR personnel repeatedly directed TOZ personnel to perform work that exceeded the scope of the relevant contracts. Then when TOZ began pushing back and asking for appropriate modifications to the scope of the relevant contracts in order to formalize the changes, ONR began descoping the contractual efforts. In addition, during the same timeframe, Department of Navy (DON) payments to TOZ began to be delayed for no proper reason.

(4) Misuse and Abuse of Contractor Resources: ONR personnel have repeatedly misused and abused TOZ personnel, including, yelling at and belittling TOZ employees, and harming TOZ's reputation by telling other DON personnel that TOZ had been tasked with various activities that the company had not completed. This was troubling because these tasks were not included in TOZ's contract and DON personnel may have viewed this as a TOZ failure.

(5) Based on this complaint, the ONR OIG opened a case in the Naval Inspector General Hotline Tracking System (NIGHTS) resulting in NIGHTS Case Number 202105292 on 11 October 2021.

(6) After reviewing the original complaint, ONR OIG requested the Complainant provide all background materials related to his complaint. The Complainant provided an additional Complaint

Narrative on 14 October 2021 and later provided 25 supporting documents to Investigators on 12 November 2021. After reviewing all of the documents provided by the Complainant and conferring with ONR Counsel's Office, it was determined that due to the Claim for Interpretation of Contract Terms, the ONR OIG would only be addressing the alleged abusive behavior by the Subject toward TOZ employees. The ONR OIG then informed the Complainant that we will not address any of the requests or any issues surrounding the requests included in TOZ's Claim for Interpretation of Contract Terms and that our inquiry would focus on the alleged abusive behavior by the Subject.

(7) ONR OIG was scheduled to interview the Complainant on 15 November 2021. However, this interview was rescheduled for 20 January 2022. During this interview, the Complainant spoke to the following inappropriate actions by (b) (7)(C), (k)(2), (b) (6) :

- Yelling and raising (b) (7)(C) voice;
- Calling people 'stupid' & use racial slurs;
- Calling / texting Contract personnel repeatedly at inappropriate times;
- Treating Complainant as if (b) (7)(C) owned him; and
- Intentionally delaying payments to TOZ.

(8) ONR OIG conferred with ONR Counsel's Office as well as an ONR Employee Relations Subject Matter Expert to determine any guidance that could be applied in this case based on the alleged behavior. ONR OIG found that there is no clear policy or guidance that applies specifically to the harassment of contract employees by civilian employees. Therefore, this case was not appropriate for the Naval Inspector General (NAVINSGEN) Hotline program. As a result, we decided that the best approach would be to refer the case to the command and recommend that command leadership appoint someone to conduct a Command Directed Investigation (CDI). ONR OIG sent the Complainant a Case Closure Letter on 15 March 2021 and closed the case in NIGHTS on 16 March 2021. The Assistant Chief of Naval Research (ACNR) at the time, CAPT Neil Colston, appointed the ONR OIG to conduct the CDI on 17 March 2022 via email and the ONR OIG immediately began working on the CDI.

**c. Additional Information.**

(1) TOZ is a small, minority owned business headquartered in Northern Virginia. ONR and TOZ entered into a 12-month contract (Contract Number N00014-20-C-2043) on 30 June 2020. The purpose of the contract was to "lead a research and development effort to engineer a solution to allow for Commercial off the Shelf unmanned platforms to be more versatile and modular enabling operation to support multiple missions in the maritime environment."

(2) As stated above, TOZ submitted a Claim for Interpretation of Contract Terms with regard to the above stated contract to the ONR Contracting Officer, (b) (7)(C), (k)(2), (b) (6), on 1 October 2021. The OIG was informed by the ONR Counsel's office that (b) (7)(C), (k)(2), (b) (6) denied the claim on 30 November 2021, and

TOZ filed an appeal to that denial on 14 December 2021 with the Armed Services Board of Contract Appeals (ASBCA). The contractual matters that TOZ raised in the claim and appeal were resolved when a judgment was entered in favor of the appellant, TOZ on 19 October 2022.

(3) On 6 December 2022, this CDI was reviewed by ONR Counsel for legal sufficiency and was deemed to be legally sufficient, met the preponderance of evidence standard, the conclusions were consistent with the findings, complied with the legal and administrative requirements, and no errors or irregularities were found which have a legal effect on the findings or conclusions in this CDI.

(4) This report was originally dated 3 January 2023 when it was forwarded to the Subject for (b)(7)(C) review and comment with a Tentative Conclusion Letter. The report is now dated 27 January 2023 after receipt and review of the Subject's response to the Tentative Conclusion Letter. The only substantive change made in this report, as compared to the 3 January 2023 report that the Subject received, are additions (3) and (4) to Section 2.c and the addition of Appendix (a) which includes the Subject's response and OIG's counter remarks.

### **3. Summary of Allegation.**

a. As stated above, the ONR OIG did not address any of those allegations that were being reviewed by the ASBCA. Therefore, our interviews with the Complainant, Subject and Witnesses, and thus this report, focused on the allegations of the Subject's alleged abusive and unprofessional behavior towards TOZ and government personnel.

b. This report examines the following allegation: That during calendar years 2020 and 2021, (b)(7)(C) (b)(7)(C), ONR Code (b)(7)(C), (k)(2), (b)(6), exhibited abusive and unprofessional behavior in the workplace in violation of the DODI 1020.04, Section 3 and the ONR Chief of Naval Research Rules of the Road, paragraph 3.A.

c. After receiving the original email complaint, the Complaint Narrative, and the Claim for Interpretation from the Complainant, we subsequently interviewed the Complainant, six Witnesses, and the Subject. After the interviews we determined that the alleged abusive behaviors exhibited by the Subject were:

- Yelling and raising (b)(7)(C) voice when speaking to government and contract personnel;
- Calling and/or texting contract personnel frequently after working hours;
- Calling people stupid, making people feel stupid and treating people in a demeaning manner;
- Intentionally delaying payments to TOZ in retaliation; and
- Using racial slurs towards TOZ personnel.

d. Based on the evidence and testimony received, we found the Subject did exhibit abusive and unprofessional behavior in the workplace by (1) yelling or raising (b)(7)(C) voice when speaking to government

and contract personnel; (2) calling or texting contract personnel frequently after working hours; and (3) calling people stupid, making people feel stupid and treating people in a demeaning manner. We also found that the Subject did not use racial slurs towards TOZ personnel or purposefully delay payments to TOZ in retaliation. When taking all of the testimony and evidence collected during this investigation in its totality, the preponderance of the evidence substantiates the allegation that the Subject exhibited abusive and unprofessional behavior in the workplace during calendar years 2020 and 2021, in violation of DoDI 1020.04, Section 3 and the ONR Chief of Naval Research Rules of the Road, paragraph 3.A.

#### **4. Standards for Allegation.**

a. CNR Rules of the Road paragraph 3.A., TREAT EVERYONE WITH RESPECT, states, “I expect each and every one of us to be passionate about our jobs and our mission and I expect you to do this with respect for each member of the NRE team. Furthermore, I expect all of us to treat everyone with respect — whether they are in our chain of command or not.”


b. DoDI 1020.04, paragraph 3.1 states, “Harassment Adversely Affecting the Work Environment. Behavior that is unwelcome or offensive to a reasonable person and that interferes with work performance or creates an intimidating, hostile, or offensive work environment is prohibited.”

c. Further, the DODI 1020.04 defines "Harassment" as, “Behavior that is unwelcome or offensive to a reasonable person and that creates conditions that interfere with work performance or creates an intimidating, hostile, or offensive work environment.”

#### **5. Interviews and Documents.**

a. **Interviews.** The IO interviewed the Complainant, the Subject and six Witnesses for this CDI. The information below represents a summary of their testimony. Note that the summaries were scoped to focus specifically on the allegations of the Subject exhibiting abusive and unprofessional behavior in the workplace.

##### **(1) Complainant Testimony Summary - 20 January 2022**

- The Complainant stated that on multiple occasions, the Subject would yell or raise  voice at him and TOZ employees. The Complainant stated that this occurred multiple times, in about half of the meetings with the Subject. The Complainant stated that it appeared that whenever TOZ personnel did not “serve” the Subject, the Subject would begin yelling and showing aggression toward the Complainant and TOZ’s employees.

- The Complainant stated that the yelling has occurred on the phone and in person. The Complainant did not recall whether the Subject used curse words when yelling; however, the Complainant described the Subject’s body language as tense, like rage. The Complainant described the

Subject yelling with anger, at times at the top of [REDACTED] lungs, in total frustration, to the point that everyone in the room was in shock. The Complainant and TOZ's employees have also witnessed the Subject yelling at employees from the Naval Research Lab (NRL).

- The Complainant stated that the Subject would yell at the Complainant for any small, unimportant thing. The Complainant was also yelled at frequently for not answering the Subject's phone calls.
- The Complainant stated that the Subject would ask the Complainant for advice on how to reprimand someone else and whether Subject was "too hard" when [REDACTED] yelled at someone else. The Subject would even at times gloat about [REDACTED] ability to make others feel stupid or inferior to [REDACTED].
- The Complainant stated that the Subject would make derogatory and demeaning statements toward people. The Complainant described situations in TOZ's conference room where the Subject would insult the Complainant and TOZ employees; tell them that they don't know what they're doing; ask them "why would you do that?" in a demeaning manner; and tell them that they don't know what they're talking about.
- The Complainant stated that the Subject once said to TOZ employees, "Why don't you just build the SS Wu?" in referencing the SEADRATANKER project (TOZ building a vehicle was not part of the contract; instead the Subject's office had committed to providing these vehicles as Government Furnished Property.). The Complainant alleges that the contract requires the Government to provide an SV2 and Remus 600 as Government Furnished Property. When the Complainant questioned the 'SS Wu' comments during a call with the Subject, the Subject immediately was defensive and stated that it was not intended to be a racial insult. The Subject then sent an email to document [REDACTED] meeting notes. The notes from the email state, "Chris Wu asked what a name 'SS Wu' was in previous meeting. The Subject explained it was a brain storming concept discussed with [REDACTED] and [REDACTED] in a previous meeting which the generator with snorkel could be towed in a separate semi-submersible that could submerge similar to the diesel submarines." This was not what the Complainant's team recalls as the comments made about the 'SS Wu.' The Complainant felt that the Subject used the term 'SS Wu' because the Complainant is of Asian descent.
- The Complainant described the Subject calling and texting him consistently (back-to-back), late at night (around 8PM). The Complainant stated that this occurred frequently, on average two to three days a week. The Complainant stated that if he did not answer a call, the Subject would repeatedly call him back (roughly two to three times within a minute) until [REDACTED] responded. When the Complainant did call the Subject back, he was yelled at for not answering [REDACTED] calls. He stated that he felt like he had to "beg for forgiveness" for not answering [REDACTED] calls. Moreover, while these late night calls were never an emergency, they would sometimes turn into very long, after hour, conversations. In

addition, if the Subject called the Complainant and he did not respond, [REDACTED] would sometimes call the Complainant's employees.

- The Complainant stated that he felt like the Subject thought [REDACTED] owned the Complainant and his company. The Subject would get angry when the Complainant and his company worked on any other contracts. The Complainant stated he would get phone calls and emails from the Subject asking him why another Government organization was involved with things, as if he was only supposed to work for [REDACTED].

- The Complainant stated that the Subject would also get angry when the Complainant mentioned anything about safety. The Complainant stated that something happened during a test event that caused the Subject's UUV to roll over in a dangerous manner. When that occurred, [REDACTED], [REDACTED] with Naval Information Warfare Center Pacific (NIWC-P), asked TOZ personnel to not tell anyone about it. The Complainant felt that this safety concern was too important to keep a secret, so he told the Subject. The Complainant stated that in response, the Subject yelled at the Complainant "How do you know?" and stated that this was not a concern for his employees.

- The Complainant stated that contract payments were delayed when the Subject was angry with the Complainant. When the Complainant did not do something that the Subject wanted the Complainant to do, the Subject would withhold payments to TOZ.

- The Complainant stated that the Subject abused [REDACTED] power when the Complainant would confirm that TOZ performed the work required (and was therefore entitled to payment), and then the Subject still withheld payments to TOZ. The Complainant felt that the Subject knew that the Complainant's company was a very small company with limited resources, and therefore the Subject withheld payments in order to harm the Complainant and TOZ.

- The Complainant stated that because of the Subject's behavior, there are some people at TOZ suffering from depression. The Complainant went on to state that this all occurred during COVID, so that made it all more difficult. The Complainant stated that he had to remove some employees from working with, or having direct contact with the Subject.

- The Complainant stated that they tried to address the Subject's behavior with the Contracting Officer, [REDACTED], and the Complainant's concerns were ignored. The Complainant stated that he asked to speak with the Contracting Officer's supervisor on multiple occasions, but that he did not speak to the supervisor until late 2021. The Complainant stated that he still has never spoken to any leadership in Code [REDACTED] regarding this issue due to leadership not being available to meet with him.

## **(2) Witness 1 Testimony Summary - 12 April 2022**

- Witness 1 stated that [REDACTED] came to meet the Subject around 2018/2019 timeframe.



- Witness 1 stated that the Subject was a sponsor for an effort that [REDACTED] department was involved with for a few years around 2018/2019. Witness 1 stated that an NRL Code approached [REDACTED] for assistance because they needed individuals with expertise in installing fiber optic communications in an UUV.

- Witness 1 went on to state that [REDACTED] department had a follow on project around the end of Fiscal Year (FY) 2019 where the Subject funded [REDACTED] team to perform some research for the installation of a buoy for the UUV. Witness 1 stated that the team performed the research and then presented their results to the Subject. [REDACTED] testified that the Subject's response was that [REDACTED] already knew everything that the team had found. However, Witness 1 stated that the Subject never shared what [REDACTED] already knew with the team, and if that information had been shared prior, the team could have scoped their research differently.

- Witness 1 stated that during meetings the Subject would cut them off when they began making a statement and would say things similar to, "Don't tell me that...that's not what I wanted to hear." Witness 1 stated that it simply was not typical with the interactions that they generally have with their other sponsors.

- Based on those types of interactions and the general demeanor that the Subject had with [REDACTED] and [REDACTED] team during meetings (in person and via teleconference); Witness 1 testified that [REDACTED] and [REDACTED] team decided not to work with the Subject anymore as a research sponsor. Witness 1 stated that it simply was not a good personality match.

- Witness 1 also stated that in general, [REDACTED] just took the Subject's unprofessional behavior as part of [REDACTED] personality. Moreover, [REDACTED] and [REDACTED] team felt that dealing with that type of personality, for that amount of money, was just not worth it.

- Witness 1 stated that [REDACTED] did not witness any abusive behavior by the Subject. [REDACTED] described the Subject as acting unprofessionally, stated that the Subject was somewhat brusque and short (curt), and stated that the Subject had a low tolerance for things that were not done in [REDACTED] way or how [REDACTED] wanted them.

- When asked whether [REDACTED] ever heard the Subject yell or raise [REDACTED] voice towards others, Witness 1 stated that the Subject speaks with a fair amount of volume...louder than others do whether [REDACTED] was happy or upset.

- Witness 1 also testified that [REDACTED] was aware of another individual, Witness 4, who used to work for the Subject at ONR. Witness 1 stated that Witness 4 described the Subject to [REDACTED] as being insulting and stated that [REDACTED] was asked by the Subject to overlook some safety issues. Witness 1 also



stated that Witness 4 advised (b) (7)(C) and some other team members to be careful when dealing with the Subject, implying that (b) (7)(F) was not trustworthy.

### (3) Witness 2 Testimony Summary - 19 April 2022

- Witness 2 stated that (b) (7)(F) came to meet the Subject sometime in 2019.
- Witness 2 stated that in (b) (7)(C) role at TOZ, (b) (7)(F) interfaces with TOZ's customers and that the Subject was one of TOZ's main customers. Therefore, Witness 2 had many conference calls directly with the Subject. The Witness stated that they were generally technical meetings where they discussed standard engineering topics.
- Witness 2 testified that (b) (7)(F) has witnessed and has been on the direct receiving end of abuse by the Subject for months. Witness 2 specifically described the Subject as being unprofessional, very abusive, demeaning, and condescending. Witness 2 also stated that the Subject would raise (b) (7)(C) voice often and that the Subject used an angry tone of voice often as well.
- Witness 2 stated that TOZ had weekly telephone conferences with the Subject. After a few of the meetings, based on interactions with the Subject, Witness 2 decided no longer to allow (b) (7)(C) engineers to interact with the Subject. From that point on, the engineers would do the work and Witness 2 would present the information to the Subject because (b) (7)(F) feared that (b) (7)(C) engineers would leave TOZ if they were subjected to the Subject's abuse.
- Witness 2 went on to state, that when (b) (7)(C) team would present something to the Subject, the Subject would essentially tell (b) (7)(C) that (b) (7)(F) was stupid and that (b) (7)(C) employees were stupid as well. Witness 2 stated that the Subject would say things like, "I don't trust your engineer...I don't know him...I can't trust what you're saying..." (b) (7)(C) stated that the Subject would continually question their level of competence.
- Witness 2 testified that TOZ was a very small company, so they put up with dealing with the Subject's abuse because the Subject led them to believe that there would be more projects/contracts for them in the future. Additionally, TOZ hired additional personnel, at the Subject's urging, and they did not want to end up laying anyone off.
- Witness 2 stated that TOZ was going out of their way and doing everything that they could to maintain their relationship with the Subject so that they could be awarded additional contracts. Witness 2 stated that they just accepted the abuse from the Subject and just dealt with it, while Witness 2 did (b) (7)(C) best to try to insulate everyone from the Subject as best as (b) (7)(F) could.
- When asked why (b) (7)(F) thought the Subject acted in that manner, Witness 2 testified that (b) (7)(F) thinks that the Subject enjoys being mean to people, just because (b) (7)(F) can. Witness 2 stated that (b) (7)(F) has worked as a Contracting Officer Representative (COR) in the Federal government, and (b) (7)(F) has never seen

anyone behave the way that the Subject behaves in the workplace. Witness 2 stated that (b) (7) believes that the Subject should have been fired a long time ago, because (b) (7)(C) behavior was completely inappropriate.

- Witness 2 described (b) (7)(C) time working with the Subject as the most difficult time in (b) (7)(C) career and stated that working with the Subject was extremely stressful.

- During meetings with the Subject, Witness 2 stated (b) (7)(C) just remained calm, did not react, and tried (b) (7)(C) best to de-escalate the situation. Witness 2 went on to state that (b) (7)(C) worked very hard to stay calm in an attempt to appease the Subject.

- Witness 2 then explained that TOZ used to serve as a sub-contractor under a company named Metron. (b) (7)(C) stated that (b) (7)(C) would participate on weekly telecoms with ONR and engineers from Metron and TOZ. Witness 2 stated that these calls were “pretty brutal” and that the Subject was “pretty rough” with Metron personnel. (b) (7)(C) also stated that the Subject’s behavior was worse toward Metron employees than it was toward TOZ personnel. Witness 2 recalled two or three of these weekly meetings where the Subject’s behavior was so bad, that it appeared that (b) (7)(C) was trying to show off for them.

- Witness 2 also testified that (b) (7)(C) was informed that some Metron personnel actually quit their jobs because they did not want to work with the Subject any longer.

#### **(4) Witness 3 Testimony Summary - 20 April 2022**

- Witness 3 stated that (b) (7)(C) came to know of the Subject when (b) (7)(C) came on board with TOZ in (b) (7)(C). At that time, (b) (7)(C) began working with the Subject when TOZ was a sub-contractor for a project at (b) (7)(C). (b) (7)(C) then met the Subject in person around 2017.

- Witness 3 stated that (b) (7)(C) has witnessed the Subject’s abusive behavior; (b) (7)(C) has been on the receiving end of the Subject’s abusive behavior; and that the Subject’s behavior was “pretty bad over the years.” Witness 3 stated that (b) (7)(C) has several situations where (b) (7)(C) could cite the Subject’s inappropriate behavior and that (b) (7)(C) could not recall an instance in (b) (7)(C) career that exceeds this situation in its breadth and scope. (b) (7)(C) stated that the Subject was a very difficult individual to work with.

- Witness 3 described the Subject as belligerent, disrespectful, combative, and mercurial. Witness 3 equated (b) (7)(C) relationship with the Subject to (b) (7)(C) being in an abusive relationship with the government. (b) (7)(C) did not want to make the Subject angry, so (b) (7)(C) felt like (b) (7)(C) was always walking on eggshells with (b) (7)(C). (b) (7)(C) also stated that they (TOZ), being a small company, felt like hostages in a sense. (b) (7)(C) stated that they felt like the Subject initially reeled them in with the promise of more contracts...then the Subject began to act like (b) (7)(C) controlled them.

- Witness 3 testified that during meetings (both in person and telephonically), while TOZ would be presenting data to the Subject, the Subject would cut them off, call them stupid, ostracize and demean them. Witness 3 stated that when they would present proven scientific data to (b) (7)(C), if the information did not meet the intent of (b) (7)(C) ideas and goals, it would be criticized. (b) (7)(C) stated that the

Subject would say things like, “You’re stupid...That’s stupid... You don’t know what you’re talking about...You’re wrong...Your math doesn’t make sense...This doesn’t make any sense...” When the Subject would question TOZ’s engineers’ scientific data, they tried to explain to (b) (7)(C) that the data presented was based on scientific facts and included no personal bias, but the Subject would not listen.

- Witness 3 went on to state that the Subject’s behavior was blatant and outright disrespectful and that (b) (7)(C) often yelled and raised (b) (7)(C) voice loudly during these meetings. Witness 3 further stated that because the Subject’s behavior was so belligerent, TOZ took the extra precaution to guard their employees from interacting with the Subject. Only senior personnel and not the staff engineers would meet with the Subject.

- Witness 3 also stated that the Subject would call (b) (7)(C) and other TOZ personnel after working hours anywhere from 1900 to 2100. (b) (7)(C) stated that the Subject would call them to discuss ideas or projects that (b) (7)(C) planned to pursue and that these conversations were well outside the scope of their contract at that time.

- Witness 3 stated that (b) (7)(C) feels like TOZ may have been “black balled” by the Subject as they are continuing to deal with the after effects of the Subject’s actions with outside organizations. As an example, Witness 3 stated that TOZ had contract actions outside of ONR (with NIWC-P) that were being held up and they believe that the Subject was involved in the delays.

- Witness 3 stated that the abuse by the Subject was not just verbal, but that the Subject used (b) (7)(C) position as a Program Officer as leverage over TOZ and that (b) (7)(C) abusive behavior created an environment of fraud, waste, and abuse in order to advance (b) (7)(C) own personal goals.

- Witness 3 stated that the Subject is aware of the government funding process and how it works and (b) (7)(C) leveraged that and the fact that (b) (7)(C) was responsible for a significant amount of funding, for (b) (7)(C) own personal benefit. One example of that being the Subject would delay payments on TOZ’s contract, although the deliverables had been met. Witness 3 testified that even though TOZ submitted invoices, the Subject would use (b) (7)(C) power to invoke fear by delaying milestone payments. Witness 3 stated that it was simply egregious for the Subject to hold up payments to a small company like TOZ. (b) (7)(C) further stated that (b) (7)(C) believes that the Subject’s motives in slowing down payments was to try to get them to bend to (b) (7)(C) desires. Another example is when the Subject would threaten to cancel TOZ’s contracts when they would not agree with (b) (7)(C) on projects.

- Witness 3 stated that although the Subject did not have the authority to cancel contracts as the Program Officer, (b) (7)(C) de-scoped their contract with NIWC causing TOZ to lose money.

- Witness 3 described the situation with the Subject as, “It was all to the point of being subservient or indentured servitude.” Witness 3 stated that the Subject would threaten to stop funding

TOZ if they worked, or did not work with another government organization or certain codes or individuals at NRL or ONR, stating that essentially, the Subject was trying to control their business.

- Witness 3 described one meeting (date unknown) that [REDACTED] attended with NRL and the Subject. During that meeting Witness 3 stated that after NRL presented information, the Subject told the NRL personnel, “I don’t like that because that’s stupid.” Then immediately after the meeting, the Subject asked TOZ personnel who were present “Did you like that? Did you like how I just did that?” The Subject also told TOZ that [REDACTED] did not like the people at NRL anymore, so [REDACTED] was not going to fund them anymore.

- Witness 3 also testified that TOZ was given various tasks by the Subject that they were not contracted to perform. For example, Witness 3 stated that they were put on projects with other organizations without their knowledge. The Subject would put their company’s name on the Power Point Presentation without their knowledge. Witness 3 stated that being a small company, they went ahead and performed the work although they were not funded for it.

- Witness 3 stated that their company battled for a while before they issued their initial complaint in 2021. Witness 3 stressed that the company was not using this avenue as a retaliatory measure for their own gain. [REDACTED] stated that they just got to a point where they could no longer ignore this type of behavior. Witness 3 stated that they wanted to prevent the Subject’s behavior from affecting other businesses in the future, because the Subject controls the money.

- When asked why [REDACTED] thought the Subject acted in this manner, Witness 3 stated that [REDACTED] really could not say, but speculated that it may be to advance [REDACTED] own professional career goals. However, Witness 3 also stated that the Subject’s behavior has been and continues to be the behavior of someone who has acted this way over some time.

- Witness 3 stated that as a former member of the military, [REDACTED] developed a tougher skin to accept some of the Subject’s abuse, but it just came to a point where [REDACTED] had say something. [REDACTED] stated that the Subject’s behavior “wouldn’t fly in uniform...So, if it wouldn’t fly in uniform, the positions and the actions that the Subject has taken over the past four or five years is absolutely mindboggling.”

- In summary, Witness 3 stated that one of [REDACTED] core jobs in the military was to “protect your star.” [REDACTED] stated that during [REDACTED] military career, [REDACTED] has seen flags (flag officers) get fired or being forced to retire for less than what the Subject has done, which is what makes it hard for [REDACTED] to believe that the Subject’s behavior is ok.

### (5) Witness 4 Testimony Summary - 22 April 2022

- Witness 4 testified that [REDACTED] used to work at (b) (7)(C), (k)(2), (b) (6) [REDACTED]). During [REDACTED] time with (b) (7)(C), (k)(2), (b) (6), Witness 4 stated that [REDACTED] was assigned a detail to ONR Code 32, from approximately April 2015 to April or May 2019.

- Witness 4 stated that [REDACTED] was also assigned a detail at NRL to work on a project supporting the Subject. After a few years of working on that detail, Witness 4 returned to (b) (7)(C), (k)(2), (b) (6). Then, around December 2014, Witness 4 stated that [REDACTED] was recommended to the Subject to work on a project with [REDACTED]. The Subject then contacted [REDACTED] and requested that [REDACTED] come to ONR for a detail position. Witness 4 stated that [REDACTED] had not really interacted with the Subject prior to [REDACTED] contacting [REDACTED].

- Witness 4 stated that [REDACTED] had witnessed the Subject exhibiting unprofessional behavior toward both government and contract personnel, because “really anybody was fair game.” Witness 4, however, was unable to recall any specific instances of the behavior because it occurred a while ago.

- Witness 4 stated that [REDACTED] worked very closely with the Subject for the four years [REDACTED] was detailed to ONR. During that time, [REDACTED] stated that the Subject complained about the contractors and the government personnel that were working on [REDACTED] program. Witness 4 stated that [REDACTED] found the Subject’s behavior to be very unsympathetic towards others.

- Witness 4 also testified that the Subject told [REDACTED] on several occasions that [REDACTED] did not want certain Metron employees working on [REDACTED] project because [REDACTED] did not believe that they possessed a high enough skill set. Witness 4 is unsure whether the Subject communicated that to Metron management or not; however, Witness 4 stated that there were numerous Metron employees that the Subject complained to Witness 4 about that were eventually pulled off [REDACTED] project and assigned to other efforts.

- Witness 4 stated that the Subject tends to idealize people and then [REDACTED] turns against them slowly when they do not do what [REDACTED] wants them to do. [REDACTED] stated that the Subject’s pattern is to find a person, or a company, and drive them until they make a mistake, and then [REDACTED] discards them.

- When asked whether [REDACTED] ever witnessed the Subject yelling or raising [REDACTED] voice at people in the workplace, Witness 4 stated that [REDACTED] has witnessed the Subject “get animated, but [REDACTED] wouldn’t just fly into a rage and just start screaming at people.” Witness 4 described the Subject’s anger as “more of a quiet rage.” Witness 4 went on to state that [REDACTED] could see other people misinterpreting the Subject’s actions as yelling, as the Subject was a little aggressive.

- When asked how others responded to the Subject’s behavior, Witness 4 stated that generally people were uncomfortable. Witness 4 continued to state that everyone on the project team just got used to [REDACTED] behavior and thought that it was simply the Subject’s personality.

- Witness 4 stated that [REDACTED] personally experienced the Subject’s inappropriate use of power when [REDACTED] reported some safety issues on the project [REDACTED] was working on. Witness 4 stated that the

UUV that they were working on required occasional maintenance. To perform this maintenance, they needed to access a specific area of the UUV that was difficult to access. (b) (7)(C) stated that the Subject was trying to rush to get the project completed without properly vetting how they would reach the access point or putting any proper operating procedures in place. (b) (7)(C) went on to state that the Subject was putting people's lives at risk by rushing. Therefore, (b) (7)(C) made the decision to go to Dr. Jason Stack, in ONR Code 32, who eventually went to Dr. Thomas Drake, ONR Code 32 Department Head, and they shut everything down. Witness 4 stated that after that, (b) (7)(C) relationship with the Subject changed. (b) (7)(C) stated that the Subject became quite adversarial, and very brusque and dismissive. (b) (7)(C) stated that at that point, it was clear that the Subject was "kind of done with (b) (7)(C)." (b) (7)(C)

- Witness 4 stated that per the original Memorandum of Agreement (MOA), (b) (7)(C) detail was scheduled for two years from 2015 to 2017. They then executed a new MOA for an additional two years from 2017 to 2019. At the time that Witness 4 raised the safety issue, (b) (7)(C) was approaching the end of (b) (7)(C) detail in 2019 and the Subject declined to issue another MOA and immediately instructed Witness 4 to begin training (b) (7)(C) replacement. Witness 4 stated that (b) (7)(C) has no reason to believe that (b) (7)(C) detail would not have been renewed, but for (b) (7)(C) raising the safety concerns. (b) (7)(C)

- Overall, Witness 4 stated that (b) (7)(C) found the Subject's behavior inappropriate. (b) (7)(C) further stated that the Subject should not be in a position of power or have any power over other people, as (b) (7)(C) has a general lack of appreciation for other people and their boundaries. (b) (7)(C)

#### **(6) Witness 5 Testimony Summary - 12 May 2022**

- Witness 5 stated that (b) (7)(C) met the Subject around 2012. (b) (7)(C) met the Subject because (b) (7)(C) and (b) (7)(C) team did a fair amount of work with the Subject on some projects that the Subject funded. Witness 5 stated that (b) (7)(C) did not work directly with the Subject, but (b) (7)(C) did have multiple meetings with the Subject and one of (b) (7)(C) employees who was the primary individual performing most of the work, and the main person interfacing with the Subject on their project. (b) (7)(C)

- When asked whether (b) (7)(C) had ever witnessed the Subject being abusive or exhibiting inappropriate behavior toward contract and/or civilian personnel, Witness 5 stated that (b) (7)(C) personally had not witnessed any of those types of behaviors. (b) (7)(C) also stated that (b) (7)(C) had a good (working) relationship with the Subject. (b) (7)(C) stated that (b) (7)(C) interactions with the Subject were always cordial, but offered the caveat that (b) (7)(C) did not interact with (b) (7)(C) on a day-to-day basis. (b) (7)(C)

- Witness 5 stated that the Subject has a very strong personality, so (b) (7)(C) could see disagreements occurring, but (b) (7)(C) has never witnessed the Subject raising (b) (7)(C) voice, yelling or being abusive towards anyone. Witness 5 also stated that (b) (7)(C) has heard of disagreements that became contentious between the Subject and others regarding the Subject's approach in certain circumstances, but (b) (7)(C) does not know enough information to characterize it as abuse. (b) (7)(C)

## (7) Witness 6 Testimony Summary - 20 April 2022

- Witness 6 stated that [REDACTED] met the Subject around 2014 or 2015. The Witness stated that at the time the Subject was a Project Manager for several programs at ONR. Witness 4 met the Subject because the Subject sponsored a few projects that [REDACTED] worked on at [REDACTED] for approximately three to four years.

- Witness 6 stated that [REDACTED] had witnessed minimal abusive / inappropriate behavior by the Subject; however, that behavior was not targeted towards [REDACTED] or [REDACTED] staff. Witness 6 stated that the work that [REDACTED] did for the Subject was really out of the Subject's level of expertise; therefore, the Subject tended to treat [REDACTED] with a higher level of respect than others. [REDACTED] stated that perhaps the Subject did not target [REDACTED] because [REDACTED] needed to depend on [REDACTED] because [REDACTED] did not know much about their project.

- Witness 6 stated that [REDACTED] witnessed the Subject raising [REDACTED] voice and using a demeaning tone when speaking to others. [REDACTED] also stated that the Subject generally talks to people as if they are dumb. Witness 6 described the Subject as "a jerk, a passive aggressive asshole, and just not a nice person." However, [REDACTED] stated that the Subject's behavior was not what [REDACTED] would call egregious and [REDACTED] did not believe that the behavior rose to the point where [REDACTED] felt the need to report it. In general, Witness 6 stated that the Subject's behavior was unprofessional, but not abusive. [REDACTED] stated that [REDACTED] would not describe [REDACTED] behavior as the highest standard of decorum.

- Witness 6 stated that many people have described the Subject to [REDACTED] as not the nicest person in the world and that others have told [REDACTED] that the Subject was very difficult to work with.

- Witness 6 stated that [REDACTED] heard of a couple of negative situations that occurred with the Subject, but [REDACTED] did not witness those situations. Witness 6 recalled conversations that [REDACTED] had with Witness 4. Witness 4 told [REDACTED] on several occasions that the Subject was not nice, [REDACTED] talks down to people, and [REDACTED] raised [REDACTED] voice often.

- Witness 6 also testified about an incident where Witness 4 reported the Subject regarding a safety issue. [REDACTED] did not recall the specifics of the conversation, but stated that Witness 4 went over the Subject's head to report the safety issue. Due to that, the Subject organized an all hands call with entire project team. During this call, the Subject brought up the safety concerns in front of everyone and focused on the fact that it was Witness 4 who was concerned with the safety issues. Witness 6 felt like Witness 4 was embarrassed by the whole situation. [REDACTED] stated that in this instance, the Subject's behavior was unprofessional, but [REDACTED] would not call it abusive.

- Witness 6 went on to state that [REDACTED] is aware of a few people, including an NRL Code Director, who advised [REDACTED] that they simply would not work with the Subject anymore. [REDACTED] went on to state that the Subject has a bad reputation around the DON and that people generally do not like [REDACTED] and do not want to work with [REDACTED]. [REDACTED] stated that the Subject makes unreasonable demands and does not



respect peoples' professional expertise. Witness 6 also recalled that Witness 5 also told (b) (7)(C) that (b) (7)(C) did not like working with Subject.

- Witness 6 also stated that (b) (7)(C) was initially assigned the project where (b) (7)(C) first met the Subject because the project team from NIWC botched something on the project. As a result, the Subject just stopped communicating with them, stopped funding them, and put Witness 6 in charge of the project. Witness 6 stated that the Subject has done that two times. (b) (7)(C) voiced that these are Working Capital Fund organizations and they really depend on external funding. (b) (7)(C) stated that it is just not the way you do business.

#### **(8) Subject Testimony Summary - 7 July 2022**

- The Subject testified that (b) (7)(C) has been a Federal government Civilian for 23 years and that (b) (7)(C) has been a Program Officer with ONR since 2008. As a Program Officer, the Subject stated that (b) (7)(C) duties are to evaluate the needs of the DON a look for possible technologies to fulfill those needs. This includes reviewing proposals from organizations that could develop those technologies to fill those needs.

- The IO asked the Subject to define harassment. The Subject defined harassment as “knowingly putting some one down or making them feel bad about themselves...”

- The Subject testified that (b) (7)(C) did not feel that (b) (7)(C) exhibited abusive or inappropriate behavior in the workplace after the IO asked whether there was any reason that someone would claim that (b) (7)(C) did so.

- In response to two statements that (b) (7)(C) called and/or texted contract personnel repeatedly after working hours (between 1900 and 2100 hours), the Subject responded, “I may have texted people after...during non-working – what they would consider non-working hours...I travel a lot and, I work different hours. So...that may be true....it would not be abnormal for me to work 5:00, 6:00, 7:00, 8:00, 9:00, 10:00 at night, trying to deal with issues at hand.”

- The Subject also testified that (b) (7)(C) did not recall asking a contractor whom (b) (7)(C) texted after hours, “Why didn’t you respond to my text” or “Where were you yesterday”, or something along those lines.

- In response to two Witness statements that (b) (7)(C) called people stupid to their face or during conference calls, the Subject responded, “I don’t think I have done that.”

- In response to four Witness statements that (b) (7)(C) yelled or raised (b) (7)(C) voice inappropriately when speaking to others in the workplace, the Subject responded, “I do not think I have yelled at people...some people claim I’m just loud, but I don’t feel like I’ve yelled at anyone in anger...I actually have...tiles on my wall because I’m loud...and if I raised my voice, I don’t think it was in anger is what I’m trying to say.”

- The Subject also testified that [REDACTED] has tiles in [REDACTED] office at One Liberty Center because without them one could hear [REDACTED] voice through the walls.
- When asked whether [REDACTED] agreed with the statement that [REDACTED] treated contract personnel as if [REDACTED] owned them, the Subject stated, "I disagree with that."
- In response to another Witness stating that [REDACTED] should not be in a position of power or have any power over other people, the Subject responded, "I don't feel I'm in a position of power right now, so...I disagree with that."
- When asked whether any payments to TOZ were ever delayed because of [REDACTED] actions, the Subject stated, "There were two payments...there were payments that were delayed but that's because I...I believe one was rejected and the other one came in while I was on leave." The Subject went on to state that with regard to the rejected payment, "After I approved it, it was rejected...but I didn't know that it was rejected, and it had to be reapproved." The Subject also agreed that the other payment was delayed around December of 2020 because [REDACTED] was on leave for quite a bit of time because [REDACTED] had use of lose and didn't see the request until [REDACTED] returned. The Subject stated that [REDACTED] believed that these payment delays occurred around December of 2020, but [REDACTED] was not positive.
- The IO then referred to the definition of 'harassment' as listed in the DOD Instruction 1020.04, which defines harassment as, "Behavior that is unwelcome or offensive to a reasonable person and that creates conditions that interfere with work performance or creates an intimidating, hostile or offensive work environment." The IO then asked the Subject if [REDACTED] would define those actions (after hour calls, calling people stupid, talked to people as if they were stupid, yelling or raising [REDACTED] voice and using a demeaning tone, delaying payments) as harassment. The Subject responded, "If those were true, then those would be considered harassment."
- When asked to describe how [REDACTED] treats people with respect, the Subject responded, "I listen to what they have to say...I value their opinion...I respect their views...treat them as individuals."
- The IO then asked the Subject, is there any reason that someone would testify that [REDACTED] was disrespectful towards others. In response, the Subject stated, "...sometimes on technical matters, I do say this is a better way of going or not, and sometimes people take offense to that."
- In response to a Witness statement that [REDACTED] acted unprofessionally, abusive, demeaning and condescending, the Subject responded, "I don't feel I did that."
- In response to a Witness statement that [REDACTED] was belligerent, combative and mercurial, the Subject stated, "I don't think I'm that...I don't feel I treat people that way."
- In response to a Witness statement that the Subject was brusque and short when speaking to others, the Subject stated, "I can be brusque and short."

- In response to a Witness statement that the Subject's behavior was blatant and disrespectful and not to the highest standard of decorum, the Subject stated, "I don't feel I was disrespectful from anything that I remember."

**b. Documents Reviewed.**

(1) The original email complaint from the Complainant to RADM Selby is dated 7 October 2021. This email's Subject was "Concerns of Institutional Fraud, Waste, and Abuse [N00014-20-C-2043]." In summary, this email briefly detailed some examples of allegations of fraud, waste, as abuse by the Subject, as described by the Complainant including Falsifying Government Documents; Wasting Government Funds and Resources; Coercive and Retaliatory Contract Administration; and Misuse and Abuse of Contractor Resources. The Complainant also stated in this email that a detailed account would be submitted to the ONR OIG and that a Claim for Interpretation of Contract Terms was submitted to ONR Code 252.

(2) TOZ submitted a Claim for Interpretation of Contract Terms, dated 1 October 2021, to (b) (7)(C), (k)(2), (b) (6), ONR Code 252 Contracting Officer. This document contained a detailed narrative of issues identified by TOZ under Contract Number N00014-20-C-2043. This included details surrounding ONR allegedly forcing TOZ to store DON equipment at its warehouse in Springfield, VA and a storage yard in Chantilly, VA that was not useful in the performance of their contract. TOZ alleged that ONR refused to remove the equipment and instead unilaterally extended the contract, after all contract performance had ended – for the sole purpose of housing the equipment. Overall, TOZ requested that the Contracting Officer interpret the Contract and declare that the contract does not permit the Government to issue unilateral extensions to the Contract period of performance and therefore, TOZ had no contract obligations after 30 July 2021; and that the contract did not require TOZ to continue storing Government property. Therefore, TOZ may ignore the DON's orders to store the equipment and/or cooperate in its disposition. (b) (7)(C), (k)(2), (b) (6) denied TOZ's claim on 30 November 2021. TOZ appealed the denial to the ASBCA on 14 December 2021. These claims address the contractual issues raised by the Complainant and was resolved when a judgment was entered in favor of the appellant, TOZ on 19 October 2022.

(3) On 15 October 2021, the Complainant provided the ONR OIG with its Complaint Narrative. This complaint contained details of various allegations of fraud, waste, abuse and mismanagement relating to the Subject and another individual, (b) (7)(C), (k)(2), (b) (6), Program Officer with (b) (7)(C), (k)(2), (b) (6). Many of the allegations were regarding contractual issues related to contracts awarded by ONR and NIWC-P where TOZ served as either the Contractor or Sub-Contractor. As stated earlier, ONR OIG chose not to address the allegations of contractual mismanagement because those issues were being addressed by the ASBCA. ONR OIG also did not address the allegations related to (b) (7)(C), (k)(2), (b) (6), as (b) (7)(C), (k)(2), (b) (6).

is not an employee of ONR. The complaint also included some allegations of inappropriate behavior in the workplace by the Subject, which is the purpose, and subject of this CDI.

(4) On 12 October 2021, we obtained documents from Procurement Integrated Enterprise Environment (PIEE) Electronic Data Access (EDA) for Contract Number N00014-20-C-2043. These documents included: the contract award and five modifications; 13 Monthly Progress Reports from May 2020 to June 2021; 16 Invoices; a Final Design Report; Field Prototype System Documentation; System Operating Procedures; and an invoice payment schedule.

(5) Two MOAs and an extension of the first MOA between ONR and NSWC-IHD for an individual who was detailed to Code 032 to work on one of the Subject's projects. The first MOA was issued for a Witness's detail to ONR from 15 April 2015 through 14 April 2016. There was then an extension of the Witness's detail from 15 April 2016 through 14 April 2017. Then there was a final MOA for the Witness's detail from 15 April 2017 through 14 April 2018 with the option to extend the detail for an additional year, if agreed to in writing by both commands.

## **6. Analysis & Discussion.**

a. **Allegation.** That during calendar years 2020 and 2021, (b) (7)(C), (k)(2), (b) (6), ONR Code [REDACTED] [REDACTED] exhibited abusive and unprofessional behavior in the workplace in violation of the DODI 1020.04, Section 3 and the ONR Chief of Naval Research Rules of the Road 3A.

(1) DODI 1020.04 – Harassment Prevention and Responses for DOD Civilian Employees dated June 30, 2020 states in paragraph 3.1, “The conduct prohibited by this policy includes, but is broader than, the legal definitions of harassment and sexual harassment. Behavior that is unwelcome or offensive to a reasonable person and that interferes with work performance or creates an intimidating, hostile, or offensive work environment is prohibited. All allegations of harassment must be evaluated under the totality of the circumstances, to include an assessment of the nature of the conduct and the context in which the conduct occurred. In some circumstances, a single incident of harassing behavior is prohibited harassment whereas, in other circumstances, repeated or recurring harassing behavior may be required to constitute prohibited harassment.” The instruction further defines harassment as “Behavior that is unwelcome or offensive to a reasonable person and that creates conditions that interfere with work performance or creates an intimidating, hostile or offensive work environment” and includes, at paragraph 3.2., a non-exhaustive list of prohibited harassing behavior.

(2) CNR Rules of the Road states, “I (CNR) expect each and every one of us to be passionate about our jobs and our mission, and I expect you to do this with respect for each member of the NRE team. Furthermore, I expect all of us to treat everyone with respect whether they are in our chain of command or not....Every member of the NRE and across society in general deserves dignity and our

respect both as a professional and as a human being regardless of gender, race, religion or sexual orientation. I will not tolerate discrimination, harassment, sexual, cyber or physical disrespect towards fellow team members or anyone with whom we interact.”

**b. Preponderance of Evidence.** Per the NAVINSGEN Investigations Manual (Chapter 4.1.2), IG Investigation findings and conclusions must be supported by a preponderance of evidence; i.e., the degree of relevant evidence that a reasonable person, considering the record as a whole, would accept as sufficient to find that a contested fact is more likely to be true than untrue. This investigation will use this standard to determine (1) which, if any, of the alleged behaviors occurred and (2) whether the behaviors that occurred, by themselves or in totality, violated either of the standards described above.

**c. Hillen Factors.** The Hillen Credibility Factors assist Investigators with assessing the credibility of a Subject’s statement, particularly when conflicting testimony is provided and there is no independent corroborating evidence. The Merit Systems Protection Board (MSPB) generally refers to the case of *Hillen v. the Department of the Army*<sup>1</sup> and the seven factors (referred to as the “Hillen” factors) used in that case to assess witness credibility. The Hillen factors are:

Factor 1: The Opportunity and Capacity to Observe the Event or Act

Factor 2: Character

Factor 3: Prior Inconsistent Statement

Factor 4: Bias

Factor 5: Contradiction by or Consistency with Other Evidence

Factor 6: Inherent Improbability

Factor 7: Demeanor

**d. Specific Allegations.** As stated earlier, we interviewed the Subject, the Complainant and six Witnesses. From the testimony provided, the alleged abusive and inappropriate behaviors exhibited by the Subject in the workplace are as follows:

- Yelling and raising [REDACTED] voice when speaking to civilian and contract personnel;
- Calling and/or texting contract personnel repeatedly after working hours;
- Calling people stupid, making people feel stupid and treating people in a demeaning manner;
- Intentionally delayed payments to TOZ in retaliation; and
- Using racial slurs towards TOZ personnel.

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<sup>1</sup> See *Hillen v. Dept. of the Army*, 35 M.S.P.R. 453 (1987).

**(1) Yelled and Raised (b) (7)(C) Voice When Speaking to Civilian and Contract Employees.**

The record shows conflicting testimony regarding this issue. The Complainant, Witness 2, Witness 3, and Witness 6 claim that the Subject yelled at them frequently. The Subject denied yelling, and the Subject, Witness 1, Witness 4, and Witness 5 indicated that people generally think (b) (7)(C) is just a loud speaker. Therefore, we will apply the Hillen Factors to assess credibility for the witnesses.

Factor 1: The Opportunity and Capacity to Observe the Event or Act. The facts relevant to this CDI show that the Complainant and the majority of the witnesses had similar capacity to observe the Subject. Only Witness 5 stated that (b) (7)(C) did not work directly with the Subject, and therefore, had limited capacity. Of the witnesses with greater capacity to observe the Complainant, Witness 2, Witness 3, and Witness 6 testified that the Subject does yell, and Witness 1 and Witness 4 testified that the Subject is simply loud. Accordingly, this factor weighs against the Subject.

Factor 2: Character. The results of this investigation did not uncover any facts relevant to the Witnesses and/or Subject's character that would make this factor significant to the analysis.

Factor 3: Prior Inconsistent Statement. The results of this investigation did not uncover any prior inconsistent statements. Therefore, this factor is not significant to the analysis.

Factor 4: Bias. The results of this investigation show that some of the Witnesses and the Subject have bias. The Complainant's company, TOZ, submitted a Claim for Interpretation of Contract Terms to ONR Code 252 on 1 October 2021. As part of this claim, TOZ alleged that several things the Subject requested were outside the scope of the contract and abusive. This claim creates potential bias in the Complainant, (b) (7)(C), (k)(2), (b) (6)'s testimony due to the nature of the TOZ contract.<sup>2</sup> Witness 6 had no identifiable bias and testified consistent with the Complainant. The Subject has an obvious bias to deny any negative information about (b) (7)(C) performance. However, Witness 1, Witness 4, and Witness 5 all testified that the Subject is just loud, and had no identifiable bias. Based on the above, the majority of the witnesses without any identified bias testified that the Subject is just loud and, therefore, this factor supports the Subject's version of the events.

Factor 5: Contradiction by or Consistency with Other Evidence. The Subject denied yelling at others and testified that (b) (7)(C) just speaks with a loud voice. Additionally, Witness 1, Witness 4, and Witness 5's testimony all support the Subject's version of events. The Complainant, Witness 2, Witness 3, and Witness 6 alleged that the Subject yelled at them frequently. Other than the testimony, there was no documentary evidence regarding the Subject's yelling to compare and/or contrast witness

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<sup>2</sup> The TOZ contract is a firm fixed price contract. Therefore, by establishing that work is outside the contract's scope, TOZ would avoid doing extra work without a corresponding increase in pay. Because TOZ had submitted a claim challenging the government's purported direction for TOZ to execute out-of-scope work, the Complainant naturally was biased against the Subject who, as the contract's (b) (7)(C), (k)(2), (b) (6) was central to TOZ's claim.

testimony. The majority of the testimony received supports the Complainant's version of the events. Accordingly, the factor weighs against the Subject.

Factor 6: Inherent Improbability. The results of this CDI did not identify any facts that were inherently improbable related to the Subject's yelling. Therefore, this factor is not significant to the analysis.

Factor 7: Demeanor. The results of this investigation show that the Subject's demeanor weighs against the Subject. Throughout the entire interview with the Subject, not once did the Subject appear to be yelling or raise [REDACTED] voice with the Investigators. As such, the Subject's claims that [REDACTED] normal voice is just loud contradicts [REDACTED] demeanor during the interview. Accordingly, this factor weighs against the Subject.

Based on the above, three of the seven Hillen factors indicate that the Complainant's version of the events is more likely true than the Subject's, and only one factor indicates otherwise.<sup>3</sup> Therefore, the preponderance of the evidence substantiates the allegation that the Subject yelled and raised [REDACTED] voice at government civilians and contract staff.

**(2) Called and/or Texted Contract Personnel Repeatedly After Working Hours.** With regard to this issue, the Complainant and Witness 3 testified that the Subject would call and/or text them, and other TOZ personnel, after working hours anywhere from 1900 to 2100 hours. The Complainant stated that the Subject would call and text him consistently, back to back, on average two to three days a week until he responded. Both the Complainant and Witness 3 stated that these calls were not emergencies and that the conversations were usually outside the scope of their contract at the time.

In response to this allegation, the Subject admitted that he contacted contract personnel after working hours. The Subject testified, "...So I may have texted people after...during non-working, what they would consider non-working hours. I travel a lot and I work different hours. So...that may be true...There may have been phone calls. I don't remember. But it would not be...abnormal for me to work 5:00, 6:00, 7:00, 8:00, 9:00, 10:00 at night and trying to deal with issues at hand." Therefore, the preponderance of evidence indicates that the Subject did contact contractor personnel inappropriately, after working hours, thus creating an intimidating work environment.

**(3) Called People Stupid, Made People feel Stupid and Treated People in a Demeaning Manner.** Here, four Witnesses and the Complainant testified that the Subject talked to people with a demeaning tone and, in some instances, called them or their ideas stupid. Some examples stated during testimony were, "I don't trust your engineer...I can't trust what you're saying...You're stupid...That's

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<sup>3</sup> The other three factors were found to be insignificant to the analysis.



stupid...I don't like that because that's stupid...You don't know what you're talking about...You're wrong...Your math doesn't make sense...This doesn't make any sense...You don't know what you're doing...Why would you do that?" In response to those statements, the Subject stated that (b) (7)(C) does not normally talk like that and normally (b) (7)(C) would ask things like, "Why does this design work...I don't understand how this works...Give me the details behind this...Why is this going to work?" Therefore, we have conflicting testimony and no documentary evidence. Therefore, we return to the Hillen factors.

Factor 1: The Opportunity and Capacity to Observe the Event or Act. The results of this CDI show that four of the six Witnesses had roughly equal capacity to observe the Subject calling people stupid, making people feel stupid or treating people in a demeaning way. Witness 5 stated (b) (7)(C) did not work directly with the Subject and Witness 4 could not recall the Subject's specific behaviors because (b) (7)(C) interactions with the Subject ended in 2019 and (b) (7)(C) could not recall any instances. Therefore, Witness 1, Witness 2, Witness 3, and Witness 6 had greater capacity to observe the Subject. All four of those witnesses testified that the Subject either spoke in a demeaning way, or in some instances, directly called them, or their idea(s), "stupid". So, this factor weighs against the Subject.

Factor 2: Character. The results of this CDI did not uncover any facts relevant to the witnesses and/or Subject's character that would make this factor significant to the analysis.

Factor 3: Prior Inconsistent Statement. The results of this CDI did not uncover any prior inconsistent statements. Therefore, this factor is not significant to the analysis.

Factor 4: Bias. The results of this CDI show several Witnesses have potential bias. The Subject has the obvious bias to deny any negative information regarding his performance. The Complainant, (b) (7)(C), (k)(2), (b) (6) who are (b) (7)(C), (k)(2), (b) (6), may be biased against the Subject due to TOZ's contractual claims against the government at the time that the complaint was submitted, claims in which the Subject, as Program Officer, plays a central role. However, Witness 1 and Witness 6 testified the Subject treats people in a demeaning manner, and this investigation found that Witness 1 and Witness 6 had no relevant bias. Therefore, this factor weighs against the Subject.

Factor 5: Contradiction by or Consistency with Other Evidence. No other evidence of the Subject calling anyone or anything "stupid" was uncovered during this investigation. Therefore, this factor is not significant to the analysis.

Factor 6: Inherent Improbability. It is unlikely that four individuals would provide testimony consistent with the Complainant (i.e., that the Subject called them or their ideas "stupid" and/or spoke to personnel in a demeaning manner), especially when two of the four are not (b) (7)(C), (k)(2), (b) (6). Thus, it is inherently more probable that these four individuals are accurately testifying, rather than the Subject's testimony that (b) (7)(C) only says things like "I don't understand how this works." Therefore, this factor weighs against the Subject.

Factor 7: Demeanor. The Subject did not refer to anything as “stupid” during our interview and was otherwise professional during the entirety of the interview. This factor weighs in the Subject’s favor.

Based on the above, three factors indicate that the Complainant and Witness version of events are more likely than the Subject’s, and only one factor indicates the opposite. The three remaining factors were not relevant here. Therefore, the preponderance of the evidence substantiates the allegation that the Subject spoke in a demeaning way and/or directly called others or their ideas stupid.

**(4) Intentionally Delayed Payments to TOZ in Retaliation.** The Complainant testified that contract payments were delayed when the Subject was angry with him because he did not do something that the Subject wanted him to do. Witness 3 also testified that the Subject would delay milestone payments even though deliverables were met and invoices were submitted, using [REDACTED] power to invoke fear. The Complainant’s original complaint to ONR OIG stated TOZ personnel were repeatedly directed to perform work that exceeded the scope of the relevant contracts. Once TOZ began pushing back and asking for appropriate modifications to the contract, they alleged that payments to TOZ were delayed for no proper reason. The Subject testified that [REDACTED] recalled two delayed payments to TOZ. [REDACTED] stated that [REDACTED] approved one payment that ended up being rejected sometime in December of 2020. [REDACTED] stated that [REDACTED] did not know that the payment had been rejected and that [REDACTED] had to re-approve it. Then the Subject stated that there was another payment that was delayed because it was sent to [REDACTED] while [REDACTED] was on an extended “use or lose” leave at the end of December 2020. While we have conflicting testimony, we also have documentary evidence to refer to. As stated in the Navy Investigations Manual, contemporaneous documents are more persuasive than testimonial evidence.<sup>4</sup>

Current regulations relevant to the U.S. Prompt Payment Act of 1982 state, “The period available to an agency to make timely payment of an invoice without incurring an interest penalty shall begin on the date of receipt of a proper invoice, except where no invoice is required.” It also states the payment due date is “...30 days after the start of the payment period...if not specified in the contract, if discounts are not taken, and if accelerated payment methods are not used.”<sup>5</sup> This investigation did not find any evidence that TOZ’s invoices were not proper when submitted. Therefore, any invoices that are not paid within 30 days are “late” by this standard.

Investigators downloaded a payment schedule from the PIEE system. According to this schedule, of the 16 invoices paid on this contract, six, or 38% of the invoices were paid late according to the U.S. Prompt Payment Act. The relevant section of the report is provided below.

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<sup>4</sup> Naval Inspector Gen. Investigations Manual, § 4.5.2, pg. 28 (14 November 2016).

<sup>5</sup> 5 C.F.R. § 1315.4(f), (g)(1)(iv) (2022).

Invoice Number	Invoice Issued Date	Invoice Received Date	Date Approved by Subject	Payment Due Date	Actual Payment Date	Number of Days Late
T10SEA01	29-Jul-20	29-Jul-20	29-Jul-20	28-Aug-20	3-Aug-20	0
T10SEA02	31-Aug-20	31-Aug-20	8-Sep-20	30-Sep-20	10-Sep-20	0
T10SEA03	25-Sep-20	25-Sep-20	25-Sep-20	25-Oct-20	30-Sep-20	0
T10SEA04	30-Oct-20	24-Nov-20	4-Jan-21	10-Dec-20	6-Jan-21	27
T10SEA05	30-Nov-20	30-Nov-20	4-Jan-21	30-Dec-20	6-Jan-21	7
T10SEA06	31-Dec-20	31-Dec-20	22-Jan-21	30-Jan-21	27-Jan-21	0
T10SEA07	29-Jan-21	29-Jan-21	26-Feb-21	28-Feb-21	2-Mar-21	2
T10SEA08	1-Mar-21	1-Mar-21	31-Mar-21	31-Mar-21	2-Apr-21	2
T10SEA09	31-Mar-21	1-Apr-21	28-Apr-21	1-May-21	2-May-21	1
T10SEA10	30-Apr-21	2-May-21	26-May-21	1-Jun-21	1-Jun-21	0
T10SEA11	28-May-21	28-May-21	25-Jun-21	27-Jun-21	29-Jun-21	2
T10SEA12	30-Jun-21	30-Jun-21	26-Jul-21	30-Jul-21	28-Jul-21	0
T10SEA13	30-Jun-21	30-Jun-21	26-Jul-21	30-Jul-21	28-Jul-21	0
T10SEA14	30-Jun-21	30-Jun-21	26-Jul-21	30-Jul-21	28-Jul-21	0
T10SEA15	30-Jun-21	30-Jun-21	26-Jul-21	30-Jul-21	28-Jul-21	0
T10SEA16	30-Jun-21	30-Jun-21	26-Jul-21	30-Jul-21	28-Jul-21	0

Based on the guidance provided in the Prompt Payment Act, the invoice report from PIEE shows that six, or 38%, of the invoices to TOZ were paid late. However, while the latter four late invoices (T10SEA07, T10SEA08, T10SEA09, and T10SEA11) were technically paid late, the Subject did approve the invoices either on or before the payment due date and they were only one or two days late. Furthermore, based on the payment schedule from PIEE, Investigators believe that during the Subject's testimony, [REDACTED] was referring to Invoice Number T10SEA04, submitted on 30 October 2020 when [REDACTED] referred to an invoice that had been rejected by someone else unknowingly; and Invoice Number T10SEA05, submitted on 30 November 2020 when [REDACTED] referred to an invoice that was sent to [REDACTED] while [REDACTED] was out of the office on leave.

Investigators also obtained a time and attendance report for the Subject from 30 October 2020 through 15 January 2021 from the ONR Human Resource Office. A summary of that time can be found below:

Subject's Time and Attendance		
Dates	Invoice Submissions	Time Status
30 Oct 2020 thru 12 Nov 2020	T10SEA04 submitted on 30 Oct 2020	Regular / Situational Telework
16 Nov 2020 thru 27 Nov 2020		Annual and Holiday Leave
30 Nov 2020 thru 3 Dec 2020	T10SEA05 submitted on 30 Nov 2020	Regular / Situational Telework
7 Dec 2020 thru 1 Jan 2021		Annual and Holiday Leave
4 Jan 2021 thru 6 Jan 2021		Regular / Situational Telework

Investigators conducted a review of the actual invoices in question from PIEE. Again, Invoice Number T10SEA04 was submitted on 30 October 2020. The Subject's time and attendance records show that [REDACTED] was working when the invoice was received on 30 October 2020, but [REDACTED] did not approve the invoice until 19 November 2020 while [REDACTED] was on leave. Then the invoice was rejected by the system on 20 November 2020, while the Subject was still on leave, stating the Contractor overbilled. TOZ then resubmitted the invoice on 24 November 2020, while the Subject was on leave. However, the Subject did not reapprove the invoice until 4 January 2021. While the Subject was largely on annual/holiday leave from 16 November 2020 through 4 January 2021, [REDACTED] did work for four days from 30 November 2020 through 3 December 2020 when [REDACTED] could have approved the invoice that TOZ resubmitted on 24 November 2020. The invoice was finally paid on 6 January 2021. With that, the Subject's testimony that this payment was delayed because it was rejected without [REDACTED] knowing appears to be a plausible explanation. However, [REDACTED] could have approved it during the four days that [REDACTED] did work to avoid the payment from being late.

The second invoice in question (T10SEA05) was submitted on 30 November 2020 and paid on the same day as Invoice Number T10SEA04, and seven days after the payment due date. The Subject's time and attendance records show that the Subject was working on 30 November when this invoice was received. [REDACTED] then worked for four days from that day until 3 December 2020. The Subject testified that this payment was delayed due to [REDACTED] being on extended leave. Again, while the Subject was largely on annual/holiday leave from 16 November 2020 through 4 January 2021, [REDACTED] did work for four days from 30 November 2020 through 3 December 2020 when [REDACTED] could have approved both invoices in question.

Nevertheless, there is insufficient evidence that any payments were delayed to TOZ intentionally in retaliation for them not doing what the Subject wanted them to do or pushing back when allegedly asked to perform work that exceeded the scope of their contract. It is just as likely that the delays were caused by other factors. Therefore, the preponderance of the evidence does not indicate that the Subject withheld payments to TOZ in retaliation.

(5) **Used a Racial Slur Toward TOZ Personnel.** The Complainant alleged that the Subject once stated to TOZ employees, “Why don’t you just build the SS Wu?” in referencing the SEADRATANKER project that TOZ was working on. The Subject later sent an email to document [REDACTED] meeting notes and stated, “Chris Wu asked what a name ‘SS Wu’ was in previous meeting. [REDACTED] (b) (7)(C), (k)(2), (b) (6) explained it was a brain storming concept discussed with (two other team members) in a previous meeting in which the generator with snorkel could be towed in a separate semi-submersible that could submerge similar to the diesel submarines.” The Complainant felt that the Subject used the term ‘SS Wu’ because a member of TOZ’s leadership is of Asian descent. When Investigators asked the Subject about the comment, [REDACTED] testified, “Oh, that...that I did say. But that was – you know, that was not intended as a racial slur. It was not intended that way...I intended it as a compliment to Mr. Wu for the idea.” The Subject also testified that [REDACTED] statement was not in reference to a member of TOZ’s personnel being of Asian descent. When the Subject was asked, why didn’t the Subject just say that that is a good idea, as opposed to saying, build the SS Wu, the Subject responded, “That would have been a better thing to say, I agree.”

There is no conflict in the testimony with regard to this issue because the Subject admitted to making the statement. However, it is difficult to say whether the use of this term was racially motivated when ‘Wu’ is the last name of the individual the Subject was addressing when the Subject made the statement. While the use of racial or other slurs constitutes prohibited harassment behaviors per the DoDI 1020.04, we cannot determine that the Subject’s use of the phrase ‘SS Wu’ was racist without more evidence and/or aggravating circumstances. Neither the Complainant, nor any other witness, alleged any aggravating circumstances that would make this statement something more than a poor choice of words. Accordingly, the preponderance of the evidence does not substantiate the allegation that the Subject used a racial slur.

**7. Conclusion.** The allegation that [REDACTED] (b) (7)(C), (k)(2), (b) (6), ONR Code [REDACTED] (b) (7)(C), (k)(2), (b) (6), exhibited abusive and unprofessional behavior in the workplace in violation of the DODI 1020.04, Section 3 and the ONR CNR Rules of the Road 3.A., is **substantiated**.

a. Based on the evidence and testimony received, the Complainant and five of the six Witnesses interviewed described the Subject’s behavior as such that a reasonable person would likely find that the Subject’s behavior was abusive, unprofessional and disrespectful; and thus adversely affected the work environment, in violation of the CNR Rules of the Road and the DoDI 1020.04. As discussed above, we found that a preponderance of the evidence shows the Subject did (1) yell or raise [REDACTED] (b) (7)(C) voice when speaking to civilian and contract employees; (2) call or text frequently after hours; and (3) called people or their ideas ‘stupid’.

b. The Complainant alleged that in general, the Subject's actions and behaviors were abusive and unprofessional and that they created a toxic workplace environment. Some testimonial examples of this behavior was Witness 1, Witness 2, Witness 4, and Witness 6 all testified that the Subject's behavior was unprofessional. Some other terms used to describe the Subject's behavior by these four Witnesses were very abusive, demeaning, condescending, inappropriate, brusque, short, and that the Subject had a low tolerance for things that were not done ~~proper~~ way. Witness 3 described the Subject as belligerent, outright disrespectful, combative, and mercurial; and stated that the Subject should have been fired a long time ago because ~~bad~~ behavior was completely inappropriate. Therefore, overall, all of the witnesses, with the exception of Witness 5, described the Subject's behavior as abusive and unprofessional during their testimony. Our investigation did not find that the Subject used a racial slur toward TOZ personnel or intentionally delayed payments to TOZ in retaliation.

c. The DoDI 1020.04 defines harassment as, "Behavior that is unwelcome or offensive to a reasonable person and that creates conditions that interfere with work performance or creates an intimidating, hostile, or offensive work environment." In reviewing the behaviors described above, a reasonable person would believe that the Subject's actions fit that definition of harassment. Furthermore, a reasonable person would not describe those behaviors as respectful.

**8. Recommendation.** In accordance with NAVINSGEN policy, DON Inspectors General do not have the authority to impose any punishment or recommend any specific disciplinary action. Therefore, we recommend that ONR take appropriate action, in accordance with the Schedule of Offenses and Recommended Remedies in Enclosure (3) of the SECNAVINST 12752.1A CH-1, against the Subject for exhibiting abusive and inappropriate behavior in the workplace, toward both civilian and contract employees.

## **9. Other Matters.**

### **a. Subject's Disregard for Safety Matters.**

(1) During the course of our investigation, it was brought to our attention that the Subject allegedly attempted to disregard, or at least was not interested in hearing, safety concerns. The Complainant testified that during a test event, the Subject's UUV rolled over in a dangerous manner. When it occurred, the Complainant stated that he felt that this safety concern was too important so he informed the Subject. He stated that the Subject responded by yelling, "How do you know? This is not a concern for you or your employees."

(2) Witness 4 also testified regarding some safety issues that ~~he~~ saw while working on a project with the Subject. ~~He~~ stated that the Subject was trying to rush to get the project completed

without putting the proper operating procedures in place and as a result, the Subject was putting people's lives at risk. The Witness stated that [REDACTED] therefore made the decision to report the issue to ONR Code 032 leadership (Dr. Jason Stack who reported it to Dr. Thomas Drake), and they shut the project down.

(3) When we mentioned the Witness expressing the safety concerns to the Subject, [REDACTED] admitted these concerns were taken to Code 032 leadership who worked to resolve the issues by pausing the testing on the project, evaluating and addressing the concerns, and then they were able to move forward. The Subject stated, "I believe [REDACTED] voiced them to the department (leadership)...I don't feel that there were safety concerns...I'd have to go back and take a look at the exact thing. I don't want to answer that question. That would be wrong."

(4) We did not pursue this line of inquiry because it was not directly related to the allegations of abusive and inappropriate behavior in the workplace. However, OIG felt that is was important enough to include in the report for ONR leadership visibility.



## **APPENDIX A**

### **1. Subject's Response to Tentative Conclusion Letter**

a. The Subject was provided the opportunity to comment on this CDI by way of a Tentative Conclusion Letter dated 11 January 2022. The Subject provided their response to the CDI on 25 January 2022. The response received from the Subject is included in its entirety below:

From: (b) (7)(C), (k)(2), (b) (6)  
To: (b) (7)(C), (k)(2), (b) (6) [Ridgway, Richard W. CIV USN CNR ARLINGTON VA VA \(USA\)](#)  
Subject: Response to CUI letter 11 Jan 2023  
Date: Wednesday, January 25, 2023 11:12:46 AM

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Mr. Ridgway and (b) (7)(C), (k)(2), (b) (6)

January 25, 2023

Please accept this correspondence as my response to the agency's Tentative Conclusion Letter for Draft Command Directed Investigation (CDI) Number 2022-001, dated 11 Jan 23. I ask that you consider my comments below before reaching any final conclusions and finalizing the CDI.

I began my employment with the Navy in (b) (7)(C), (k)(2), (b) (6). In my (b) (7)(C), (k)(2), (b) (6) years of service, I have always tried to do my best to accomplish my mission in the various positions I have held. In more than two decades, I have never been subjected to disciplinary action. In 2008, I became an ONR employee working as the (b) (7)(C), (k)(2), (b) (6). (b) (7)(C), (k)(2), (b) (6). In 2011, I was assigned the lead for the new (b) (7)(C), (k)(2), (b) (6). (b) (7)(C), (k)(2), (b) (6). In that role, I created technologies that started two new programs of record in the Navy. These programs fostered numerous technology transitions in the mine warfare and littoral battle space programs.

I was notified on April 11, 2022, that I was the subject of a CDI. I fully cooperated with the investigation. I was interviewed on July 7, 2021. On July 12 and July 26, 2022, I provided documentation as requested by investigators.

I have read the Tentative Conclusion Letter, and portions of the associated report of investigation (ROI) that pertain to me. I understand the investigation claims to sustain three allegations:

- 1.) I yell or raise my voice when speaking to civilian and contract employees;
- 2.) I call or text frequently after hours;
- 3.) I call people or ideas "stupid."

As I stated in my July 7 interview, I do not remember any complaints from contractors or government employees alleging that I yelled or raised my voice when speaking to them. I am known to speak in a loud and animated manner, especially on the phone. I have even purchased, with my own funds, acoustic tiles that I installed in my office to reduce my volume to neighboring offices. These have been in place since 2018. Admiral Hahn came into my office as I was installing them. While I often speak loudly, it has never been my intent to raise my voice or yell at contractors or at government employees, or to speak to them in a demeaning manner. If this matter had been brought to my attention, and if I had known, I would have corrected the issue. I never intended to speak or act in a manner that would make people feel uncomfortable.

Since 2013, I have been involved in a significant amount of testing at Naval Information Warfare Center (NIWC) in San Diego. (b) (7)(C), (k)(2), (b) (6) is my testing lead. During testing events on the West Coast, it is normal to receive status updates from NIWC until 1700 Pacific time, which is 2000 eastern time. At the end of the test day, it is necessary and normal to coordinate with the contractor to determine what will happen the next day. For this reason, I may communicate after 1700 eastern time. I do not demand employees or contractors answer these

after hours communications, but I believe it is important to provide current status reports to all involved, to give them the opportunity to provide input on the reports and the path forward before the next day's program begins. I do not remember being told by anyone that I was either texting or calling at inappropriate times. If anyone had raised an objection or concern, I would have respected each individual's wishes. I accept calls at all times, even when on travel. I stay late or come in early for international meetings, as well as take calls at various hours when there are testing issues with my projects.

Finally, to my knowledge, I have never called employees or contractors stupid. I have never intended to belittle or demean any person that I work with. If I had been told people perceived me to be expressing myself in an inappropriate way, or as engaging in conduct that offended or caused discomfort to anyone, I would have stopped immediately. I wholeheartedly apologize if my actions were interpreted in that way.

Thank you for your consideration. I wanted to note that the distribution list has ONR code 34 and does not include ONR 32 which I am currently assigned. If you require any additional information, please do not hesitate to contact me.

Sincerely,

(b) (7)(C), (b)(2), (b) (6)

b. The CDI report states that based on the evidence and testimony received, we found the Subject did exhibit abusive and unprofessional behavior in the workplace. The allegation was substantiated based on three 'sub-allegations.' The following narrative includes each of those three 'sub-allegations', the Subject's specific response to each of them, and our consideration and reply to (b) (7)(C) responses:

**(1) Yelling or raising (b) (7)(C) voice when speaking to government and contract personnel.**

- The Subject's written response to this sub-allegation was, "I do not remember any complaints from contractors or government employees alleging that I yelled or raised my voice when speaking to them. I am known to speak in a loud and animated manor, especially on the phone....While I often speak loudly, it has never been my intent to raise my voice or yell at contractors or at government employees, or to speak to them in a demeaning manner. If this matter had been brought to my attention, and if I had known, I would have corrected the issue. I never intended to speak or act in a manner that would make people feel uncomfortable."

- We stated in the Analysis and Discussion section of the report that the Subject and three Witnesses indicated that people generally consider the Subject to be a 'loud speaker' and that the Complainant and three Witnesses claimed that the Subject yelled at them frequently. Furthermore, the Complainant and three Witnesses testified that the Subject "raised (b) (7)(C) voice and used an angry tone of voice often; yelled and raised (b) (7)(C) voice loudly during meetings; raised (b) (7)(C) voice and used a demeaning tone when speaking to others; and yelled in anger, at times at the top of (b) (7)(C) lungs in total frustration to the point that everyone in the room was shocked." With the conflicting testimony, we applied the Hillen

factors to assess the credibility of the witnesses. As stated in the report, we found that three of the seven Hillen factors indicated that the Complainant's version of the events was more likely true than the Subject's, one factor supported the Subject's version of events, and three of the factors were not applicable to the analysis. With that, the preponderance of the evidence substantiated the sub-allegation that the Subject yelled and raised [REDACTED] voice at government civilians and contract staff.

- After considering the Subject's written response, we stand by our initial finding and conclusion listed in this report and conclude that the Subject did yell and/or raise [REDACTED] voice when speaking to government and contract personnel.

**(2) Calling or texting contract personnel frequently after working hours.**

- The Subject's written response to this sub-allegation was in part, "During testing events on the West Coast, it is normal to receive status updates from NIWC until 1700 Pacific Time, which is 2000 Eastern Time. At the end of the test day, it is necessary and normal to coordinate with the contractor to determine what will happen the next day. For this reason, I may communicate after 1700 Eastern Time. I do not demand employees or contractors answer these after-hours communications, but I believe it is important to provide current status reports to all involved, to give them the opportunity to provide input on the reports and the path forward before the next day's program begins. I do not remember being told by anyone that I was either texting or calling at inappropriate times. If anyone had raised an objection or concern, I would have respected each individual's wishes. I accept calls at all times, even when on travel. I stay late or come in early for international meetings, as well as take calls at various hours when there are testing issues with my projects."

- The Subject admitted in [REDACTED] written response and during [REDACTED] testimony that [REDACTED] has called and/or texted personnel during non-working hours, thus creating an intimidating work environment. The DoDI 1020.04, states, "Harassment can be oral, visual, written, physical, or electronic and that harassment can occur through electronic communications, including social media, other forms of communication, and in person." The Subject also contends in [REDACTED] response that [REDACTED] was initiating these after hour communications in order to coordinate with the contractor to determine what will happen the next day. However, the Complainant and Witness 3 both testified that the Subject would call them and other TOZ personnel to discuss matters that were outside the scope of their contract at that time.

- After considering the Subject's response, we stand by our initial finding and conclusion listed in this report and conclude that the Subject did inappropriately call and/or text contract personnel frequently after working hours.

**(3) Calling people stupid, making people feel stupid and treating people in a demeaning manner.**

- The Subject disputes this sub-allegation, by stating in [REDACTED] written response, “I have never called employees or contractors stupid. I have never intended to belittle or demean any person that I work with. If I had been told people perceived me to be expressing myself in an inappropriate way, or as engaging in conduct that offended or caused discomfort to anyone, I would have stopped immediately. I wholeheartedly apologize if my actions were interpreted in that way.”

- We stated in the Analysis and Discussion section of the report that four Witnesses and the Complainant testified that the Subject talked to people with a demeaning tone and in some instances, called them or their ideas stupid. Because we had conflicting testimony, we applied the Hillen factors to assess the credibility of the witnesses. As stated in the report, we found that three of the seven Hillen factors indicated that the Complainant and Witnesses version of the events was more likely true than the Subject’s, only one factor supported the Subject’s version of events, and three of the factors were not applicable to the analysis. Therefore, the preponderance of the evidence substantiated the sub-allegation that the Subject spoke in a demeaning way and/or directly called others or their ideas stupid.

- After considering the Subject’s response, we stand by our initial finding and conclusion listed in this report and conclude that the Subject did inappropriately treat people in a demeaning way and/or call others or their ideas stupid.

c. Finally, in response to each of the three sub-allegations, the Subject states in different ways that had [REDACTED] been told [REDACTED] behavior was not appropriate; [REDACTED] would have rectified [REDACTED] behavior. OIG does not accept the Subject not being told that [REDACTED] behavior was improper as an excuse of [REDACTED] inappropriate behavior. As a DoD civilian employee, the Subject has an obligation to treat others with dignity and respect. Additionally, the CNR states in the CNR Rules of the Road, “I expect all of us to treat everyone with respect – whether they are in our chain of command or not.” The Subject should not have to be told to act in a respectful and professional manner. Overall, having carefully considered all of the evidence, including the Subject’s response to our tentative conclusions, we stand by our findings and conclusions.